IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 10223 of 1996

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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G N SURTI & 9 - Petitioner(s)
Versus
STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :
NANAVATY ADVOCATES for Petitioner(s) : 1 - 10.
Ms. Maithily Mehta, AGP for Respondent(s) : 1,
MR HS MUNSHAW for Respondent(s) : 2 - 3.

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH
Date : 08/11/2006

ORAL JUDGMENT

By way of this petition under Article 226 of the Constitution of India, the petitioners have prayed for a declaration that they are entitled to get HRA at the rate of 'Surat

Classified City'. The petitioners have also challenged the order passed by the Taluka Development Officer, Olpad, dated 13/16th August 1996 by which he was directed not to pay HRA to the petitioners at the rate of Surat Classified City.

2. Shri Buch, learned advocate appearing on behalf of the petitioners submitted that though after the order at Annexure 'A' dated 13/16th August 1996 consequential order of recovery has not been passed, necessary consequences would be that the respondents may recover the amount of HRA paid to the petitioners till August 1996. He has conceded that so far as the question as to entitlement of getting HRA at the rate of Surat Classified City is concerned, the same is already decided by this Court in Special Civil Application No. 3245 of 1988 and other allied matters, however an order has been passed not to recover the amount which is already paid to the

respective petitioners.

3. It is required to be noted that in fact the petitioners at the time of filing Special Civil Application relied upon the order passed in Special Civil Application No. 3245 of 1988 and submitted that, that Special Civil Application is identical to that of present Special Civil Application. Now, that Special Civil Application No. 3245 of 1988 is dismissed by the learned Single Judge of this Court [Coram: K.A. Puj, J.] by judgment and order dated 8.2.2006 wherein it is held that the petitioners are not entitled to get HRT at the rate of Surat Classified City.

4. Under the circumstances and for the reasons stated in the said Judgment, prayers in terms of paragraphs 16(A) and (B) cannot be granted, and to that extent the present Special Civil Application is required to be dismissed. However, in view of the fact that till date there

was no order of recovery passed by the Taluka Development Officer and/or any other authority seeking recovery of the HRA paid to the petitioners upto July 1996, it is observed that as and when such a recovery is proposed, the respondents to consider the judgment of this Court dated 8.2.2006 passed in Special Civil Application No. 3245 of 1988 and cognate matters and/or it will be open for the petitioners to point out to the competent authority that if any recovery is proposed to be made the same cannot be effected in view of the judgment and order dated 8.2.2006 passed by this Court in Special Civil Application No. 3245 of 1988 and cognate matters. With these, the present Special Civil Application is dismissed. Rule is discharged. No costs.

[M.R. Shah, J.]

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